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09/754,024	01/03/2001	William A. Scott	243768038US (25MB-0038)	2007
25096	7590	06/02/2005	EXAMINER	
PERKINS COIE LLP PATENT-SEA P.O. BOX 1247 SEATTLE, WA 98111-1247			ALPERT, JAMES M	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/754,024

Applicant(s)

SCOTT ET AL.

Examiner

James Alpert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 1/3/2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 06/24/02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

The application has been examined, and Claims 1-37 are pending. The objections and rejections are as stated below.

***Claim Rejections - 35 USC § 102/103***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the anticipation rejections made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2,15-24,26-28, and 31-37 are rejected under 35 U.S.C. 102(e) as being unpatentable over French, U.S. Patent Application Publication #20010037281. In addition, Claims 3-14,25, and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over French.

**With regard to Claim 1, French teaches the method comprising:**

at least one server computer in the set of server computers, receiving a request to schedule a reverse auction based on an identified item to procure, wherein the reverse auction is to be conducted a selected number of days in the future;  
(Page 4, Para. 35; Para. 41; Page 6, Para. 48)

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determining by the buyer organization whether to add additional requests for the identified item, based on the scheduled auction;  
(Page 4, Para. 32)

creating an electronic qualification plan to qualify the identified item;  
(Page 4, Para. 35)

approximately concurrently with creating a qualification plan, identifying suppliers to participate in the reverse auction, including suppliers associated with the two supplier computers; (Page 3, Para. 29)

approximately concurrently with identifying suppliers, creating an electronic request for quotations ("RFQ") with respect to the identified item;  
(Page 4, Para. 32)

creating a draft electronic purchase order for the identified item before conducting the reverse auction;  
(Page 6, Para. 47)

at least one server computer in the set of server computers, electronically distributing the electronic RFQ to the at least two supplier computers over the public computer network; (Page 4, Para. 36)

conducting the reverse auction and identifying a winning supplier from the identified suppliers; (Page 6, Para. 47)

With regard to the following limitation:

transitioning from an existing supplier to the winning supplier;

This statement implies a condition: either the winning supplier will be an existing supplier or a new supplier. Should it turn out that the winning supplier is a new supplier, it is an inherent aspect of the method to go ahead and transition to the new supplier. In other words, why else would one conduct the auction, if not to determine a winner, and then utilize the services or products of the winner. Thus French anticipates this claim as being inherent to the auction process.

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French further teaches the following limitation:

and at least one server computer in the set of server computers, providing the draft electronic purchase order to the winning supplier to at least procure a number of the identified items for executing the created qualification plan.  
(Page 6, Para. 47)

**With regard to Claim 2**, French teaches the method wherein:

receiving a request to schedule a reverse auction comprises receiving input, from an electronic purchasing leader, to a web page electronic auction form;  
(Page 4, Para. 31)

determining whether to add additional requests for the identified item comprises automatically providing to a global commodity leader an electronic copy of the web page auction form, and determining whether suppliers in identified low cost geographic regions may participate; (Page 2, Para. 24)

conducting the reverse auction comprises, at an auction server computer in the set of server computers, electronically providing results of the reverse auction at an expiration of an auction duration; (Page 6, Para. 47)

wherein providing the draft electronic purchase order to the winning supplier comprises creating an electronic purchase order at a purchasing system server computer in the set of server computers; (Page 6, Para. 47)

and wherein the method further comprises, approximately concurrently with creating an electronic RFQ, electronically scheduling the reverse auction with an electronic auction support group. (Page 5, Para. 40)

**With regard to Claim 3**, French teaches the system comprising at least one server configured to:

receive a date when an auction is to be conducted, wherein the auction is for an item to be procured from one of the plurality suppliers, wherein the date is a selected number of days in the future and is stored in the database;  
(Page 4, Para. 35; Page 5, Para. 41; Page 6, Para. 48)

before the date of the auction, provide at least a portion of an electronic qualification plan to qualify the item to be procured, wherein at least the portion of the electronic qualification plan is stored in the database;  
(Page 3, Para. 29)

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assist in the conducting the auction and obtaining winning bid from a winning supplier selected from the two or more suppliers; (Page 6, Para. 47)

With regard to the following limitation:

and assist in procuring at least a number of the identified items from the winning supplier for executing the created qualification plan before a greater number of the identified items are procured from the winning supplier.

French does not expressly teach acquiring a sample order prior to arranging for a greater number of items to be procured. However, this aspect of the claim is old and well known in the art, in that many manufacturers request samples prior to executing the full contract amount. As such, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made, to modify the teachings of French so as to allow for an initial order of items to qualify the items, followed by an order for a much greater number of items. The motivation for such an addition is to allow the buyer to become certain that the product that is probably the lowest price in the auction is still of sufficient quality to meet his needs. Buyers will become encouraged to use the system.

**With regard to Claim 4,** French teaches the system wherein:

conducting the auction comprises assisting in conducting an electronic reverse auction between a buyer computer associated with a buyer organization and supplier computers associated with the two or more suppliers, wherein a public computer network couples the buyer and supplier computers and the server computer; and wherein (Page 1, Para. 9)

wherein the server computer is further configured to provide at least a portion of an electronic request for quotations ("RFQ") with respect to the item to be procured, and distribute the electronic RFQ to the two or more supplier computers over the public computer network. (Page 4, Para. 36)

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**With regard to Claim 5**, French teaches the system wherein:

the server computer is further configured to provide at least a portion of an electronic request for quotations ("RFQ") with respect to the item to be procured, and distribute the electronic RFQ to the two or more suppliers.  
(Page 4, Para. 36)

**With regard to Claim 6**, French teaches the system wherein:

the server computer is further configured to provide notification to at least one member of a qualification team after the winning supplier is identified.  
(Page 6, Para. 47)

**With regard to Claim 7**, French teaches the system comprising:

conducting an electronic reverse auction with supplier computers associated with the two or more suppliers, wherein the supplier computers are coupled to the server computer via the Internet. (Page 2, Para. 23)

**With regard to Claims 8,10,11**, French teaches the system and medium comprising:

identifying an item to procure from one of the two or more suppliers under an auction, wherein the auction is to be conducted a selected number of days in the future; (Page 4, Para. 35; Para. 41; Page 6, Para. 48)

before conducting the auction creating an electronic qualification plan to qualify the identified item; (Page 4, Para. 35)

conducting the auction and identifying a winning supplier from the two or more suppliers; (Page 6, Para. 47)

With regard to the following limitation:

and procuring at least a number of the identified item from the winning supplier for executing the created qualification plan before procuring a greater number of the identified items from the winning supplier.

French does not expressly teach acquiring a sample order prior to arranging for a greater number of items to be procured. However, this aspect of the claim is old and well known in the art, in that many manufacturers request

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samples prior to executing the full contract amount. As such, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made, to modify the teachings of French so as to allow for an initial order of items to qualify the items, followed by an order for a much greater number of items. The motivation for such an addition is to allow the buyer to become certain that the product that is probably the lowest price in the auction is still of sufficient quality to meet his needs. Buyers will become encouraged to use the system.

**With regard to Claim 9,** French teaches the method comprising:

creating an electronic request for quotations ("RFQ") with respect to the identified item. (Page 6, Para. 47)

and distributing the electronic RFQ to the two or more supplier computers over the public computer network. (Page 4, Para. 36)

**With regard to Claim 12,** French teaches the method comprising:

notifying at least one member of a qualification team after the winning supplier is identified. (Page 6, Para. 47)

**With regard to Claim 13,** French teaches the method comprising:

creating a request for quotations ("RFQ") with respect to the identified item and distributing the RFQ to the at least two suppliers.  
(Page 6, Para. 47 ; Page 4, Para. 36)

**With regard to Claim 14,** French teaches the method comprising:

creating a draft purchase order before conducting the auction.  
(Page 6, Para. 47)

**With regard to Claims 15,18** French teaches the method and medium comprising:

identifying an item to procure from one of the two or more supplier organizations under an auction; (Page 4, Para. 35; Para. 41; Page 6, Para. 48)



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creating an electronic qualification plan to qualify the identified item;  
(Page 4, Para. 35)

approximately concurrently with creating a qualification plan, identifying supplier organizations from the two or more supplier organizations to participate in the auction; (Page 4, Para. 29)

approximately concurrently with identifying supplier organizations, creating a request for quotations ("RFQ") with respect to the identified item;  
(Page 6, Para. 47)

distributing the RFQ to the identified supplier organizations; and  
(Page 4, Para. 36)

conducting the auction and identifying a winning supplier organization from the identified supplier organizations. (Page 6, Para. 47)

**With regard to Claim 16**, French teaches the method comprising:

creating a draft purchase order before conducting the auction.

**With regard to Claim 17**, French teaches the method comprising:

conducting an electronic reverse auction between a buyer computer associated with the buyer organization and supplier computers associated with the two or more supplier organizations, wherein the buyer and supplier computers are coupled to a public computer network; and wherein creating an RFQ comprises creating an electronic request for quotations with respect to the identified item and distributing the electronic RFQ to the two or more supplier computers over the public computer network. (Page 6, Para. 47 ; Page 4, Para. 36)

**With regard to Claim 19**, French teaches the method comprising:

identifying a set of potential supplier organizations from a larger set of supplier organizations, and approving at least some of the set of identified supplier organizations. (Page 4, Para. 35)

**With regard to Claim 20**, French teaches the method comprising:

electronically distributing the RFQ for approval before distributing the RFQ.  
(Page 4, Para. 36)

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**With regard to Claims 21,24** French teaches the executable code, method and medium comprising:

providing at least a portion of an electronic qualification plan to qualify an item to be procured under an auction; (Page 4, Para. 35)

receiving a set of supplier names identifying suppliers to participate in the auction, wherein the set of supplier names is selected from the two or more suppliers; (Page 4, Para. 35; Para. 41; Page 6, Para. 48)

and providing at least a portion of a request for quotations ("RFQ") with respect to the identified item, and wherein providing at least a portion of the RFQ is performed approximately concurrently with providing at least a portion of an electronic qualification plan or receiving a set of supplier names. (Page 6, Para. 47 ; Page 4, Para. 36)

**With regard to Claim 22**, French teaches the executable code and method comprising:

creating a purchase order before conducting the auction. (Page 6, Para. 47)

**With regard to Claim 23**, French teaches the executable code and method comprising:

distributing the RFQ to the set of suppliers; and conducting the auction and identifying a winning supplier from the set of suppliers. (Page 4, Para. 36 ; Page 6, Para. 47)

**With regard to Claim 25**, French does not expressly teach the executable code and method comprising:

providing at least a portion of an electronic qualification plan includes receiving an initial number of the identified item to procure for testing.

However, this claim is old and well known in the art, in that many manufacturers request samples prior to executing the full contract amount. As such, it would have been obvious to one of ordinary skill in the art at the time

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applicant's invention was made, to modify the teachings of French so as to allow for an initial order of items to qualify the items, followed by an order for a much greater number of items. The motivation for such an addition is to allow the buyer to become certain that the product that is probably the lowest price in the auction is still of sufficient quality to meet his needs. Buyers will become encouraged to use the system

**With regard to Claim 26,** French teaches the executable code and method comprising:

electronically distributing the RFQ for approval before conducting the auction; and electronically distributing the set of suppliers for approval before conducting the auction. (Page 4, Para. 36)

**With regard to Claim 27,** French teaches the method comprising:

creating a request for quotations ("RFQ") with respect to an item to procure from one of the two or more supplier organizations, wherein the item has been procured from an existing supplier organization; (Page 6, Para. 47, wherein the supplier could either be existing or a new supplier, no differentiation)

identifying a set of supplier organizations selected from the two or more supplier organizations, wherein the set of supplier organizations are to participate in the auction; (Page 4, Para. 35; Para. 41; Page 6, Para. 48)

distributing the RFQ to the set of identified supplier organizations; (Page 4, Para. 36)

conducting the auction and identifying a winning supplier organization from the set of identified supplier organizations; (Page 6, Para. 47)

With regard to the following aspects of the claim:

and if the winning supplier organization is not the existing supplier organization, transitioning to the new supplier comprising procuring any existing numbers of the identified item the existing supplier organization has on hand;

AND

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procuring a number of the identified item from the existing supplier organization to permit uninterrupted transitioning to the winning supplier organization under an automated procurement system ("MRP system").

These are inherent aspect to the Claim, in that when utilizing a new supplier, buyers are often forced to use existing stock while awaiting the arrival of new orders. Thus French anticipates this part of the claim. Continuing, French teaches:

automatically generating an electronic message for at least the existing supplier regarding at least one reason why the winning supplier won the auction; (Page 6, Para. 47)

**With regard to Claim 28**, French teaches the medium comprising:

receiving a request to schedule an auction based on an identified item to purchase, wherein the auction is to be conducted a selected number of days in the future; (Page 4, Para. 35; Para. 41; Page 6, Para. 48)

determining by the buyer organization whether to add additional requests for the identified item, based on the scheduled auction and based on additional need for the identified item within the business organization; (Page 4, Para. 32)

creating a request for quotations ("RFQ") with respect to an item to procure from one of the two or more supplier organizations; (Page 6, Para. 47)

identifying a set of supplier organizations from the two or more supplier organizations to participate in the auction; (Page 4, Para. 29)

distributing the RFQ to the identified set of supplier organizations; (Page 4, Para. 36)

and conducting the auction and identifying a winning supplier organization from the identified set of supplier organizations. (Page 6, Para. 47)

**With regard to Claim 29,30** these Claims relate to a medium that is a logical node in a network and a computer-readable disk. These claims are old and well known in networking and data processing arts, respectively. It would

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have been obvious to one of ordinary skill in the art at the time applicant's invention was made to modify the teachings of French to include these particular design choices. The motivation for such a combination is to determine which particular arrangements provide the smoothest transaction processing available.

**With regard to Claim 31,** French teaches the medium comprising:

receiving an at least partially prepared purchase order before conducting the auction. (Page 6, Para. 47)

**With regard to Claim 32,** French teaches the medium comprising:

creating the RFQ and identifying a set of supplier organizations are performed substantially concurrently. (Page 6, Para. 47)

**With regard to Claim 33,** French teaches the medium comprising:

creating, before the auction, a qualification plan to qualify the identified item. (Page 4, Para. 35)

**With regard to Claim 34,** French teaches the system comprising:

means for receiving a request to schedule an auction based on an identified item to purchase and an identified quantity, wherein the auction is to be conducted a selected number of days in the future;  
(Page 4, Para. 35; Para. 41; Page 6, Para. 48)

and means for determining whether to increase the identified quantity for the item based on the scheduled auction and based on additional need for the identified item within the business organization. (Page 4, Para. 32)

**With regard to Claim 35,** French teaches the system comprising:

means for creating a request for quotations ("RFQ") with respect to the item to procure from one of the two or more suppliers; (Page 6, Para. 47)

means for identifying a select number of suppliers from the two or more suppliers to participate in the auction; (Page 4, Para. 35)

means for distributing the RFQ to the identified suppliers;  
(Page 4, Para. 36)

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and means for conducting the auction and identifying a winning supplier from the identified suppliers. (Page 6, Para. 47)

**With regard to Claim 36**, French teaches the system comprising:

means for creating a qualification plan to qualify the identified item before conducting the auction. (Page 4, Para. 35)

**With regard to Claim 37**, French teaches the system comprising:

means for creating a request for quotations ("RFQ") with respect to the item to procure from one of the two or more suppliers; (Page 6, Para. 47)

and means for identifying a select number of suppliers from the two or more suppliers to participate in the auction, wherein the means for creating the RFQ and means for identifying supplier operate approximately concurrently. (Page 4, Para. 36)

### ***Conclusion***

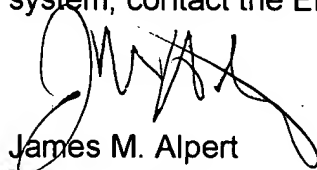
The following prior art, made of record, but not relied upon, is considered pertinent to applicant's disclosure:

- a) Blair et al., U.S. Patent Application Publication #20020087440, July 4, 2002, Method for Reconstructing and Validating a Bill of Materials and Creating a Comprehensive Bill of Materials.
- b) Li et al., U.S. Patent Application Publication #20030004850, January 2, 2003, Auction Management.

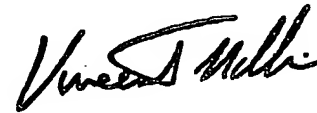
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Alpert whose telephone number is (571) 272-6738. The examiner can normally be reached on M-F 9:30-6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.



James M. Alpert  
May 31, 2005



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